



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (6)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (6)** Committee held on **Thursday 18th May, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Melvyn Caplan, Julia Alexander and Rita Begum

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

Councillor Julia Alexander declared that the application concerning The Marylebone Kitchen, 106 York Street, was located within the Ward she represented, Bryanston and Dorset Square Ward, and therefore withdrew from the meeting for this application.

#### 3 "14", BASEMENT, VICTORY HOUSE, 14 LEICESTER SQUARE, WC2 - LICENSING ACT 2003 APPLICATION

#### LICENSING SUB-COMMITTEE No. 6

*Thursday 18th May 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: Objecting to the Application:  
Environmental Health, The Metropolitan Police and The Licensing Authority.

Supporting the Application:  
 Eight local businesses, one local resident, The Leicester Square Association and the Heart of London Business Alliance.

Present: Mr Philip Kolvin QC (Barrister, representing the applicant), Ms Lana Tricker (on behalf of the applicant), Mr Simon Warr (Director, Applicant Company) Mr Ian Watson (Environmental Health), PC Toby Janes (Metropolitan Police), Mr David Sycamore (Licensing Authority) and Mr Fadil Maqedonci (local resident).

<b>“14”, Basement, Victory house, 14 Leicester Square 17/01159/LIPV</b>											
<b>1.</b>	<b>Recorded Music</b>										
	<table border="0"> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>Monday to Wednesday 20:00 to 03:00 Thursday to Saturday 20:00 to 06:00 Sunday 20:00 to 03:00</td> <td>Monday to Saturday 17:00 to 06:00 Sunday 17:00 to 03:00</td> </tr> <tr> <td colspan="2"><b>Seasonal Variations/Non-Standards Timings:</b></td> </tr> <tr> <td style="text-align: center;"><u>Current</u></td> <td style="text-align: center;"><u>Proposed</u></td> </tr> <tr> <td>When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.</td> <td>Sunday before Bank Holidays to 17:00 to 06:00.</td> </tr> </table>	<u>Current</u>	<u>Proposed</u>	Monday to Wednesday 20:00 to 03:00 Thursday to Saturday 20:00 to 06:00 Sunday 20:00 to 03:00	Monday to Saturday 17:00 to 06:00 Sunday 17:00 to 03:00	<b>Seasonal Variations/Non-Standards Timings:</b>		<u>Current</u>	<u>Proposed</u>	When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.	Sunday before Bank Holidays to 17:00 to 06:00.
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	<p>Amendments to application advised at hearing:</p> <p>None.</p>										
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Number Fourteen (Management) Ltd for a variation of a premises licence in respect of “14”, Basement, Victory House, 14 Leicester Square, London.</p> <p>The Chairman confirmed that the applicant had submitted two different applications for the premises, a variation of the premises licence under the Licensing Act 2003 and a variation of the Sexual Entertainment Venue (SEV)</p>										

premises licence. With the agreement of all the parties present it was decided to hear both applications simultaneously.

The Licensing Officer provided an outline of the applications to the Sub-Committee and confirmed that the applicant had agreed to amend the hours for the sale of alcohol to 17:00 to 05:30 Monday to Saturday.

The Council's Legal Adviser confirmed that a further amendment to condition 48 had been submitted by the applicant further restricting the capacity of the premises as follows:

- Capacity of 200 (customers) until 02:00am
- Capacity of 150 (customers) from 02:00am to 03:30am
- Capacity of 100 (customers) from 03:30am to 04:30am
- Capacity of 50 (customers) from 04:30am until closing time

At the request of the Sub-Committee the Council's Policy Adviser set out the policy considerations for both applications. The premises was located in a Cumulative Impact Area (CIA) and within Policy CIP1, for certain types of premises, there was a presumption against granting an application. It was important to understand whether the application should be considered an exception to policy. There was a degree of overlap between policies PVC2 and MD2 but all premises located within a CIA had to demonstrate that the licensable activities carried on would not add to cumulative impact in the area. Whether the Sub-Committee came to the view that it needed to be demonstrated that the application was an exception to policy, in addition to a demonstration that it would not add to cumulative impact, depended on the view the Sub-Committee came to regarding what the activities at the premises actually constituted. If it was their opinion that it was a performance venue and the provision of alcohol was only provided ancillary to a performance then policy PVC2 would apply. If it came to the view that it was alcohol-led premises or that alcohol formed a significant part of the offer, or was not related to the provision of the entertainment, or did not rely on performance then it would be a premises where an exception had to be proved. To demonstrate that the application was an exception to policy it would be necessary for the applicant to show that the reasons for the policy would not be undermined and demonstrate that there would be no additional cumulative impact caused by the application on balance.

In response to a question from the applicants regarding the extension of hours to allow the premises to sell alcohol earlier in the day the Council's Policy Adviser clarified that the policy did not distinguish on hours. However, it was generally accepted that within the context of the policy cumulative impact was an issue later in the evening after core hours.

Mr Kolvin, representing the applicant, explained that application was essentially in three parts. The first was the deletion of conditions 43 and 44 which related to works conditions and were now spent. The second centred on the bringing forward of the hours to 17:00 from 20:00. Given the venue currently traded with no impact on the local area there was no evidence against allowing the proposal. The earlier hours were being requested to attract local employees leaving work who wanted to relax in a lounge environment. The applicant

believed that the earlier hours provided a suitable business opportunity. Thirdly, the application involved the request for later hours for licensable activities. Mr Kolvin circulated a revised table of the hours requested. The Sub-Committee's attention was brought to Sundays where the terminal hour for the sale of alcohol would remain at 00:30 as currently operated. This was in acknowledgement of Sundays as a day when local residents could be expected to receive respite from additional noise in the local area. Longer hours for the sale of alcohol were being requested Monday to Thursday, 17:00 to 05:30 hours. In response to a question Mr Kolvin confirmed that alcohol could be served until 05:30 and customers could continue drinking until the premises closed. The sexual entertainment would continue until 06:00 however and this allowed for a 'drinking-up' period. Mr Kolvin confirmed that regarding the later hours requested several conditions had been suggested to provide reassurance it would uphold the licensing objectives. It was confirmed that the proposal was to extend the hours for the sale of alcohol in a CIA and therefore the application would be dealt with on the basis that exceptional circumstances had to be shown.

When the Sub-Committee originally granted the application in 2013 it was anticipated that the venue would have a low impact on the local area as it was recognised that sexual entertainment venues did not create significant levels of crime and disorder. It had been accepted that conditions could provide a basis for an exception to policy if they were able to constrain licensable activity and minimise cumulative impact. The exemplary record of the premises was proof that the Sub-Committee's decision had proven to be correct. The applicant, Mr Walls, was an experienced operator and had ensured that the premises was a professional operation. The following points were raised as evidence of this: firstly the nature of the venue, it was a well-run premises which would remain a sexual entertainment venue. This was the reason why people frequented the premises and it would therefore continue not to add to any crime and disorder in the area. Secondly, the venue was of a very high quality. It was decorated to a very high specification to provide a lounge type environment. Thirdly was the high quality of the staff and management at the premises. There was a high ratio of staff to customers providing a high service environment and this ensured the good behaviour of customers. SIA's were always in attendance however they operated more like meeters and greeters than security staff. Fourthly, it was emphasised that alcohol was ancillary to the entertainment provided. The price of alcoholic drinks was high, no draught beer was available and no promotions involving alcohol took place. The clientele at the venue were of an older nature, averaging between the ages of 35 and 55. Free tea and coffee was supplied to customers after 03:00 and this helped create the low-key conversational environment. Music levels were low and this allowed customers and dancers to engage with one another in conversation. Finally, the venue was not a mass occupancy premises. No queuing took place outside the premises, only five smokers were allowed outside and there was no rapid emptying of the premises. Previously the operation had been a nightclub which had caused considerable trouble to the responsible authorities. Since the applicants had purchased the premises and turned it into a sexual entertainment venue it was now a well-run operation which was having a positive impact on the area. No crime and disorder or nuisance complaints had been made since the premises opened seven years ago.

Mr Kolvin explained that there were no external images displaying the fact that the premises was a sexual entertainment venue. It was very discrete, the door was kept closed at all times and no external drinking was permitted. The venue did not affect the character of Leicester Square and had demonstrated it had been a good neighbour to local businesses and residents. It played an active role in keeping Leicester Square safe and no objections had been received from local residents, businesses or community associations. It was making a positive contribution to upholding the licensing objectives in the local area. For these reasons it was felt that the premises could be regarded as an exception to policy. The request for later hours did mean that the application was very similar to the application from Platinum Lace Gentleman's Club made in 2011. That application was granted and allowed the premises to sell alcohol until 06:00 hours as it had been demonstrated it was an exception to policy. Platinum Lace requested a year later for the last entry to the premises to be extended to 04:00 and this had been granted based on the fact no objections had been received, and no issues reported. This provided empirical evidence of what happened when the precise extension requested was granted. This provided the following, powerful pieces of evidence to support the application before the Sub-Committee:

- The Platinum Lace experience;
- The Sub-Committee's findings in relation to the application by "14" made in 2013;
- The experience of operating Temporary Event Notices (TENS) at the premises for the hours requested without any issues or concerns raised; and
- The applicant was also proposing a tapered reduction in capacity from 02:00 which would help with the dispersal of customers.

The Sub-Committee was interested in how in practice the reduction in capacity would work? Mr Walls, representing the applicant company, advised that a count on how many customers were within the premises was maintained. This allowed staff to refuse entry to customers if required however it was very unusual to a have a high capacity later in the evening. Customers normally stayed in the premises for an average of 2 to 2.5 hours and the capacity was usually maintained through natural filtration. If the capacity was too high at a certain allocated hour then customers would be asked to leave, although this had never occurred.

In requesting the extension in hours Mr Kolvin highlighted the concessions being offered by the applicant to ensure the premises did not add to the cumulative impact in the area. The tapered limit on the capacity of the venue would help ensure there were no issues with the dispersal of customers. It was also proposed to only serve alcohol to customers who were seated after 03:00 to ensure the premises became even more low-key the later it operated. A taxi marshal would also be deployed from 03:00 to escort exiting customers' to taxis, providing more guardianship in the local area. The Sub-Committee was reminded that the application was very similar to Platinum Lace's except "14" would have half the capacity. The application had strong local support and there was actual evidence of the benign consequences of granting later hours for sexual entertainment venues.

Mr Kolvin suggested that the application would not have any impact on the local area. Extensive conditions were already attached to the licence, an additional security presence was proposed and the sale of alcohol would be ancillary to the entertainment provided. There was empirical evidence from Platinum Lace and the previous application submitted for "14" that it would promote the licensing objectives. The local support for the application, the tapered capacity limits and the successful operation of numerous TENS all made the application an exception to policy.

Mr Kolvin recognised that representations had been received from the responsible authorities. Environmental Health (EH) had submitted a standard representation based on that the later hours were likely to increase levels of nuisance. Evidence had been subsequently presented that this was not the case and no further evidence had been supplied by EH. The Licensing Authority had submitted a policy based representation and no further details had been provided. The Police had submitted a brief representation regarding cumulative impact which stated that further details would be forthcoming.

In response to a question Mr Walls confirmed that any events would be internal only and the cover charge to enter the premises was £20.

Mr Watson, representing Environmental Health, confirmed that the premises had not created any additional nuisance in the local area and had not been subject to any enforcement action. The previous premises had operated as a nightclub and had been an operation creating nuisance. The three aspects of the application were addressed:

- No objections were raised to the removal of conditions 43 and 44;
- With regards to the earlier hours requested the applicant had shown that it could operate in a discrete manner. No problems had been reported to EH and it was felt that earlier hours would not create any issues. No objections had been received from local businesses or residents. The licence was currently conditioned very heavily and alcohol would be ancillary to the premises operating as a sexual entertainment venue. The current operation was very professional unlike the previous operation which had been a dysfunctional nightclub.
- Concerning the later hours requested the venue could currently operate until 06:00 hours as a sexual entertainment venue Monday to Saturday (though it was noted by the Sub-Committee that the SEV only operated until 06:00 on the days following Thursday to Saturday evenings). Other venues in the local area were not as heavily restricted and further restrictions in capacity would be introduced.

Mr Watson was of the opinion that the proposals would not increase levels of nuisance in the local area and the representation had been maintained to simply answer any questions the Sub-Committee may have had. In response to a question Mr Watson confirmed that as the licence was already heavily conditioned there were no further conditions he would add to the licence.

My Sycamore, representing the Licensing Authority, agreed that the conditions

on the licence were sufficient. With regards to the earlier hours requested the character of the area had to be taken into account. The premises was discrete however the Sub-Committee had to consider if allowing a sexual entertainment venue to be open in a family location from 17:00 was appropriate. Concern was also expressed that allowing the later hours would result in additional people being located within a CIA after core hours. After 04:00 50 additional people would be in the CIA resulting in an increase in cumulative impact. Extending the last entry hour for customers to 04:00 had the potential to result in people remaining in the CIA longer before entering the premises.

PC Janes, representing the Metropolitan Police, confirmed that their representation was maintained on the grounds that the later hours applied for went beyond the core hours policy. PC Janes confirmed that the Police had no concerns over the premises opening at 17:00 hours. The Sub-Committee was advised that the venue was not a source of crime and disorder and had operated TENs without any issues arising. Only one incident had been reported in the last year and this related to a theft at the premises.

Mr Maqedonci, a local resident, explained that he lived on the south side of Leicester Square. Problems had been experienced when it had been previously operated as a nightclub however since the current owners had operated the premises all the problems had ceased. The venue was very discrete, no customers congregated outside the premises and it had a very positive impact on Leicester Square.

Mr Kolvin highlighted how a debate had taken place over the late last entry hour during the decision to grant the Platinum Lace application and no issues had arisen from granting it. The Sub-Committee's attention was drawn to the evidence supplied which highlighted the premises was not having a negative impact on the area but was in fact having a positive impact on the Leicester Square area. If the Sub-Committee was satisfied if that was the case then it would be appropriate to grant the application as an exception to policy.

The Council's Policy Adviser requested clarification on the nature and extent of vertical drinking which could occur at the venue. Mr Kolvin advised that there was a bar at the venue which allowed customers to stand, drink and watch the entertainment. Therefore there was the opportunity for vertical drinking but the premises was more setup to provide a seated lounge experience. If the Sub-Committee was minded to grant the later hours restrictions on capacity would be imposed, drinks would only be served after 03:00 to those customers seated and this would all create a safe, relaxed environment.

The Sub-Committee carefully considered the application and recognised that the applicant had accepted that for the application to be granted it had to be demonstrated it was an exception to policy. The Sub-Committee acknowledged that the premises was professionally run and the applicant had significant experience in managing such an operation. The positive effect it was having on the local area was highlighted by the lack of objections received to the application and the numerous letters of support received by residents and businesses. The discrete nature of the venue was recognised and it was felt this made it appropriate for the local area especially bearing in mind that the

previous operation had been a nightclub which had created significant disturbance to Leicester Square. In considering the application the Sub-Committee acknowledged that sexual entertainment venues generally caused fewer problems than other types of premises. The condition restricting the sale of alcohol to be ancillary to striptease entertainment, and with the venue only intended to operate as a sexual entertainment venue provided reassurance that the premises would not become alcohol-led. The licence was already heavily conditioned to ensure the licensing objectives were upheld plus the proposed restrictions to the capacity of the venue would help ensure it would not add to cumulative impact in the area. This would be helped through the condition requiring a marshal to be deployed outside the venue from 03:00 to escort customers leaving the premises to taxis and help provide further guardianship in the area. These proposals would ensure there was a gradual and well managed dispersal of customers from the premises. The Sub-Committee was pleased to note that the proposed extension to hours on Sundays had been withdrawn as the Council's Licensing Policy considered Sunday to be different to other days of the week and one where residents could expect respite from any disturbance. No issues had also arisen from the operation of the TENS. As such, after careful consideration, the Sub-Committee agreed to grant the application accordingly as it was of the opinion that it would uphold the licensing objectives, not add to cumulative impact in the area and therefore could be considered an exception to policy.

The Sub-Committee agreed to amend, delete or add the following conditions in order to update the licence accordingly:

- Condition 11 be amended to read "The sale and consumption of intoxicating liquor shall be ancillary to the provision of striptease entertainment."
- Condition 43 be removed from the licence.
- Condition 44 be removed from the licence.
- Condition 48 be amended to read "The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:
  - a) Capacity of 200 (customers) until 2.00am
  - b) Capacity of 150 (customers) from 2.00am to 3.30am
  - c) Capacity of 100 (customers) from 3.30am until 4.30 am
  - d) Capacity of 50 (customers) from 4.30am until closing time
- Condition 49 be amended to read "There shall be no new admittance or re-admittance to the premises after i) 02:30 on Monday, ii) 04:00 on Bank Holiday Monday iii) 04:00 Tuesday to Sunday s save for persons temporarily leaving to smoke"
- An additional condition be added to the licence to read "After 03:00 hours alcohol shall only be served to and consumed by customers who are seated."
- An additional condition be added to the licence to read "The premises shall employ a taxi marshal from 03:00 until closing to escort customers wanting taxis to their pickup spot."



<b>2.</b>	<b>Exhibition of Films</b>	
	<p><u>Current</u></p> <p>Monday to Wednesday 20:00 to 03:00  Thursday to Saturday 20:00 to 06:00  Sunday 20:00 to 03:00</p> <p><b>Seasonal Variations/Non-Standards Timings:</b></p> <p><u>Current</u></p> <p>When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.</p>	<p><u>Proposed</u></p> <p>Monday to Saturday 17:00 to 06:00  Sunday 17:00 to 03:00</p> <p><u>Proposed</u></p> <p>Sunday before Bank Holidays to 17:00 to 06:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted; the reason for the decision is detailed in section 1.</p>	
<b>3.</b>	<b>Performance of Live Music</b>	
	<p><u>Current</u></p> <p>Monday to Wednesday 20:00 to 03:00  Thursday to Saturday 20:00 to 06:00  Sunday 20:00 to 03:00</p> <p><b>Seasonal Variations/Non-Standards Timings:</b></p> <p><u>Current</u></p> <p>When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.</p>	<p><u>Proposed</u></p> <p>Monday to Saturday 17:00 to 06:00  Sunday 17:00 to 03:00</p> <p><u>Proposed</u></p> <p>Sunday before Bank Holidays to 17:00 to 06:00.</p>

	<p>Amendments to application advised at hearing:</p> <p>None.</p>								
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted; the reason for the decision is detailed in section 1.</p>								
<b>4.</b>	<b>Performance of Dance</b>								
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	<p>Amendments to application advised at hearing:</p> <p>None</p>								
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted; the reason for the decision is detailed in section 1.</p>								
<b>5.</b>	<b>Late Night Refreshment</b>								
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	When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.	No variation applied for.
	Amendments to application advised at hearing: None	
	Decision (including reasons if different from those set out in report): The application was granted; the reason for the decision is detailed in section 1.	
<b>6.</b>	<b>On Sales by Retail of Alcohol</b>	
	<u>Current</u> Monday to Saturday 20:00 to 03:00 Sunday 20:00 to 00:30  <b>Seasonal Variations/Non-Standards Timings:</b>  <u>Current</u> When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.	<u>Proposed</u> Monday to Saturday 17:00 to 06:00 Sunday 17:00 to 03:00  <u>Proposed</u> Sunday before Bank Holidays to 17:00 to 06:00.
	Amendments to application advised at hearing: The Sub-Committee was notified of the following amendments to the proposed hours: Monday to Saturday 17:00 to 05:30 Sunday 17:00 to 00:30	
	Decision (including reasons if different from those set out in report): The application was granted; the reason for the decision is detailed in section 1.	
<b>7.</b>	<b>Hours Premises Are Open to the Public</b>	
	<u>Current</u>	<u>Proposed</u>

	<p>Monday to Wednesday 20:00 to 03:30  Thursday to Saturday 20:00 to 06:00  Sunday 20:00 to 03:00  Sunday before Bank Holidays 20:00 to 06.00</p>	<p>Monday to Saturday 17:00 to 06:00  Sunday 17:00 to 03:00  Sunday before Bank Holidays 17.00 to 06.00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted; the reason for the decision is detailed in section 1.</p>	
<p><b>8.</b></p>	<p><b>Conditions Being Varied, Added or Removed</b></p>	
<p><b>Current:</b></p> <p><b>Condition 49</b></p> <p>There shall be no new admittance or re-admittance to the premises after 02.30 hours save for persons temporarily leaving to smoke.</p>	<p><b>Proposed:</b></p> <p><b>Condition 49</b></p> <p>So that it reads “There shall be no new admittance or re-admittance to the premises after (1) 02:30 hours Sunday and (2) 04:00 Monday-Saturday and bank holiday Sundays, save for persons temporarily leaving to smoke.”</p>	
<p><b>Condition 43</b></p> <p>The Licence will have no effect until the Licensing Authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.</p>	<p><b>Condition 43</b></p> <p>Propose to remove.</p>	
<p><b>Condition 44</b></p> <p>Before the premises opens to the public, the plans as deposited will be checked by the Environmental Health</p>	<p><b>Condition 44</b></p> <p>Propose to remove.</p>	

<p>Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the LFEPA, Environmental Health Consultation Team, the Police and the Licensing Authority.</p>	
<p><b>Condition 48</b></p> <p>The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:</p> <ul style="list-style-type: none"> <li>a) Capacity of 250 (customers) until 2.00am</li> <li>b) Capacity of 200 (customers) from 2.00am to 3.30am</li> <li>c) Capacity of 100 (customers) from 3.30am until closing time</li> </ul>	<p><b>Condition 48</b></p> <p>so that it reads: “The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:</p> <ul style="list-style-type: none"> <li>a) Capacity of 250 (customers) until 2.00am</li> <li>b) Capacity of 200 (customers) from 2.00am to 3.30am</li> <li>c) Capacity of 100 (customers) from 3.30am to 4.30am</li> <li>d) Capacity of 50 (customers) from 4.30am until closing time.”</li> </ul>
<p>Amendments to application advised at hearing:</p> <p>The Sub-Committee was informed that the hours in the report should read</p> <p>The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:</p> <ul style="list-style-type: none"> <li>a) Capacity of 200 (customers) until 2.00am</li> <li>b) Capacity of 150 (customers) from 2.00am to 3.30am</li> <li>c) Capacity of 100 (customers) from 3.30am to 4.30am</li> <li>d) Capacity of 50 (customers) from 4.30am until closing time.”</li> </ul>	
<p>Decision (including reasons if different from those set out in report):</p> <p>The application was granted subject to condition 49 being reworded as set out below (now appearing as condition 47 on the amended licence); the reason for the decision is detailed in section 1.</p>	

<b>Conditions attached to the Licence</b>
<b><u>Mandatory Conditions</u></b>
1. No supply of alcohol may be made at a time when there is no designated

premises supervisor in respect of this licence.

2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children;

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
  6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. The responsible person shall ensure that;

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures;

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

#### **Conditions Consistent with the Operating Schedule**

11. The sale and consumption of intoxicating liquor shall be ancillary to the provision of striptease entertainment.

12. Any person permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

13. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.

14. The premises are not be used by any outside promoters save those that give

the Metropolitan Police 14 days' notice and the Police to have absolute veto.

15. Alcohol shall not be sold for consumption off the premises.
16. The supply of alcohol at tables shall be by waiter/waitress service only.
17. There shall be no draught beers sold at the premises.
18. All seating shall consist of tables and chairs arrangement and there shall be no cinema style seating.
19. Door staff shall be employed at all times when the premises are open for licensable activity. There shall be a minimum of two door supervisors to be employed at the entrance of the premises from 8pm. All door supervisors at the entrance to wear high visibility jackets.
20. All public areas of the premises shall be sufficiently illuminated to afford SIA registered supervisors a clear view of the dancers.
21. The premises management will become members and actively participate in a pub watch scheme (or similar) if one is operating in the area of the premises.
22. There shall be no dancing by customers.
23. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer of the City Council throughout the preceding 31 day period.
24. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
25. A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of officer from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
26. No noise shall emanate from the premises nor vibration be transmitted



through the structure of the premises which gives rise to a nuisance.

27. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
28. All external doors shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
29. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
30. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
31. No waste or recyclable materials, including bottles, shall be moved, removed or placed in outside areas between (23.00) hours and (08.00) hours.
32. The highway and public spaces in the vicinity of the premises shall be kept free of litter from the premises at all material times to the satisfaction of the Council. All litter and sweepings shall be collected and stored in accordance with the approved refuse storage arrangements.
33. A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
34. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
35. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - dry ice and cryogenic fog

- smoke machines and fog generators
- pyrotechnics including fire works
- firearms
- lasers
- explosives and highly flammable substances.
- real flame.
- strobe lighting.

36. The licence holder shall enter into an agreement with a hackney carriage and/or private hire firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.

37. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.

38. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.

39. Curtains and hangings shall be arranged so as not to obstruct emergency signs.

40. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

41. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

42. All exit doors shall be available at all material times without the use of a key, code, card or similar means.

43. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to five (5) persons at any one time.

44. Performers/Dancers permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to two (2) persons at any one time.

45. An attendant shall be on duty in the cloakroom during the whole time that it is in use.

46. The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:

- a) Capacity of 200 (customers) until 2.00am
- b) Capacity of 150 (customers) from 2.00am to 3.30am
- c) Capacity of 100 (customers) from 3.30am to 4.30am
- d) Capacity of 50 (customers) from 4.30am until closing time

47. There shall be no new admittance or re-admittance to the premises after i) 02:30 on Monday, ii) 04:00 on Bank Holiday Monday iii) 04:00 Tuesday to Sunday save for persons temporarily leaving to smoke.
48. After 21.00 hours a log shall be maintained to ensure that the capacity limit set for the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.
49. A challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
50. Substantial food and non-intoxicating beverages, including drinking water, shall be available during the whole of the permitted hours in all parts of the premises where intoxicants are provided.
51. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
52. All external doors shall be kept closed after 21.00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
53. The certificates listed below shall be submitted to the Licensing Authority upon written request.
- a) Any emergency lighting battery or system
  - b) Any electrical installation
  - c) Any emergency warning system
54. Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties (save insofar as they are necessary for the prevention of crime).
55. No person shall give at the *premises* any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.
- a. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
56. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
57. No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services

shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.

58. There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.

59. No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity at the premises shall cause, permit, employ or allow, directly or indirectly through a third party, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises.

For the purposes of this condition, 'Specified Area' means the area encompassed within Shaftesbury Avenue, Piccadilly Circus, Regent Street up to the junction with Pall Mall, Cockspur Street, Trafalgar Square, Strand up to the junction with Bedford Street, Garrick Street, Great Newport Street and Charing Cross Road to the junction of Shaftesbury Avenue.

60. Tea and coffee to be provided without charge for patrons (on request) between 03:00 and closing time.

61. SIA security shall monitor/supervise all areas of the premises where striptease/table/lap dancing is taking place.

62. In addition to condition 43 above, patrons will have a designated smoking area, which shall be supervised by a SIA door supervisor.

63. The premises shall become members of and participate in the Safer West End Business Crime Reduction Partnership/ radio scheme, or such similar scheme that may be operating at any time.

64. Door supervisors shall remain on duty to supervise the area immediately outside the premises until at least 15 minutes after the last patron has left the premises.

65. When the hours authorised by this licence extends beyond 1am, then in relation to the morning on which British Summer Time begins, the hours shall be extended by 1 hour after the authorised hour on the licence.

66. After 03:00 hours alcohol shall only be served to and consumed by customers who are seated.

67. The premises shall employ a taxi marshal from 03:00 until closing to escort customers wanting taxis to their pickup spot.

**4 "14", BASEMENT, VICTORY HOUSE, 14 LEICESTER SQUARE, WC2 - SEV APPLICATION**

**LICENSING SUB-COMMITTEE No. 6**

Thursday 18 May 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Rita Begum

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Tristan Fieldsend  
Presenting Officer: Yolanda Wade

Representations: Objecting to the Application:  
Environmental Health, The Licensing Authority and  
The Metropolitan Police

Supporting the Application:  
Eight local businesses, one local resident, The  
Leicester Square Association and the Heart of  
London Business Alliance.

Present: Mr Philip Kolvin QC (Barrister, representing the applicant), Ms Lana Tricker (on behalf of the applicant), Mr Simon Warr (Director, Applicant Company) Mr Ian Watson (Environmental Health), PC Toby Janes (Metropolitan Police), Mr David Sycamore (Licensing Authority) and Mr Fadil Maqedonci (local resident).

<b>14, Basement, Victory House, 14 Leicester Square, London, WC2H 7NG 17/01156/LISEVV</b>	
<b>1.</b>	<b>Variation of a Sexual Entertainment Venue Premises Licence</b>
The application was to vary the sexual entertainment venue premises licence to extend the hours for relevant entertainment Monday to Saturday 17:00 to 06:00 hours, Sunday 17:00 to 03:00 hours and Sunday before a Bank Holiday 17:00 to 06:00 hours. This involved a commencement hour that was three hours earlier across the week and a three hour increase in the terminal hour from 03.00 hours to 06.00 hours on the days following Monday to Wednesday evenings. It was also requested to restrict the capacity as follows	
<b><u>Current:</u></b> The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following: a) Capacity of 250 (customers) until 2.00am b) Capacity of 200 (customers) from 2.00am to 3.30am c) Capacity of 100 (customers) from	<b><u>Proposed:</u></b> The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following: a) Capacity of 250 (customers) until 2.00am b) Capacity of 200 (customers) from 2.00am to 3.30am c) Capacity of 100 (customers) from

	3.30am until closing time	3.30am to 4.30am d) Capacity of 50 (customers) from 4.30am until closing time
Amendments to application advised at hearing:		
<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Number Fourteen (Management) Ltd for a variation of a premises licence in respect of “14”, Basement, Victory House, 14 Leicester Square, London.</p> <p>The Chairman confirmed that the applicant had submitted two different applications for the premises, a variation of the premises licence under the Licensing Act 2003 and a variation of the Sexual Entertainment Venue (SEV) premises licence. With the agreement of all the parties present it was decided to hear both applications simultaneously.</p> <p>The Licensing Officer provided an outline of the applications to the Sub-Committee and confirmed that the applicant had agreed to amend the hours for the sale of alcohol to 17:00 to 05:30 Monday to Saturday.</p> <p>The Council’s Legal Adviser confirmed that a further amendment to condition 48 had been submitted by the applicant further restricting the capacity of the premises to:</p> <ul style="list-style-type: none"> <li>• Capacity of 200 (customers) until 02:00am</li> <li>• Capacity of 150 (customers) from 02:00am to 03:30am</li> <li>• Capacity of 100 (customers) from 03:30am to 04:30am</li> <li>• Capacity of 50 (customers) from 04:30am until closing time</li> </ul> <p>At the request of the Sub-Committee the Council’s Policy Adviser set out the policy considerations for both applications. The premises was located in a Cumulative Impact Area (CIA) and within Policy CIP1, for certain types of premises, there was a presumption against granting an application. It was important to understand whether the application should be considered an exception to policy. There was a degree of overlap between policies PVC2 and MD2 but all premises located within a CIA had to demonstrate that the licensable activities carried on would not add to cumulative impact in the area. Whether the Sub-Committee came to the view that it needed to be demonstrated that the application was an exception to policy, in addition to a demonstration that it would not add to cumulative impact, depended on the view the Sub-Committee came to regarding what the activities at the premises actually constituted. If it was their opinion that it was a performance venue and the provision of alcohol was only provided ancillary to a performance then policy PVC2 would apply. If it came to the view that it was alcohol-led premises or that alcohol formed a significant part of the offer, or was not related to the provision of the entertainment, or did not rely on performance then it would be a premises where an exception had to be proved. To demonstrate that the application was</p>		

an exception to policy it would be necessary for the applicant to show that the reasons for the policy would not be undermined and demonstrate that there would be no additional cumulative impact caused by the application on balance.

In response to a question from the applicants regarding the extension of hours to allow the premises to sell alcohol earlier in the day the Council's Policy Adviser clarified that the policy did not distinguish on hours. However, it was generally accepted that within the context of the policy cumulative impact was an issue later in the evening after core hours.

Mr Kolvin, representing the applicant, explained that application was essentially in three parts. The first was the deletion of conditions 43 and 44 which related to works conditions and were now spent. The second centred on the bringing forward of the hours to 17:00 from 20:00. Given the venue currently traded with no impact on the local area there was no evidence against allowing the proposal. The earlier hours were being requested to attract local employees leaving work who wanted to relax in a lounge environment. The applicant believed that the earlier hours provided a suitable business opportunity. Thirdly, the application involved the request for later hours for licensable activities. Mr Kolvin circulated a revised table of the hours requested. The Sub-Committee's attention was brought to Sundays where the terminal hour for the sale of alcohol would remain at 00:30 as currently operated. This was in acknowledgement of Sundays as a day when local residents could be expected to receive respite from additional noise in the local area. Longer hours for the sale of alcohol were being requested Monday to Thursday, 17:00 to 05:30 hours. In response to a question Mr Kolvin confirmed that alcohol could be served until 05:30 and customers could continue drinking until the premises closed. The sexual entertainment would continue until 06:00 however and this allowed for a 'drinking-up' period. Mr Kolvin confirmed that regarding the later hours requested several conditions had been suggested to provide reassurance it would uphold the licensing objectives. It was confirmed that the proposal was to extend the hours for the sale of alcohol in a CIA and therefore the application would be dealt with on the basis that exceptional circumstances had to be shown.

When the Sub-Committee originally granted the application in 2013 it was anticipated that the venue would have a low impact on the local area as it was recognised that sexual entertainment venues did not create significant levels of crime and disorder. It had been accepted that conditions could provide a basis for an exception to policy if they were able to constrain licensable activity and minimise cumulative impact. The exemplary record of the premises was proof that the Sub-Committee's decision had proven to be correct. The applicant, Mr Walls, was an experienced operator and had ensured that the premises was a professional operation. The following points were raised as evidence of this: firstly the nature of the venue, it was a well-run premises which would remain a sexual entertainment venue. This was the reason why people frequented the premises and it would therefore continue not to add to any crime and disorder in the area. Secondly, the venue was of a very high quality. It was decorated to a very high specification to provide a lounge type environment. Thirdly was the high quality of the staff and management at the premises. There was a high ratio of staff to customers providing a high service environment and this ensured the good behaviour of customers. SIA's were always in attendance however they

operated more like meeters and greeters than security staff. Fourthly, it was emphasised that alcohol was ancillary to the entertainment provided. The price of alcoholic drinks was high, no draught beer was available and no promotions involving alcohol took place. The clientele at the venue were of an older nature, averaging between the ages of 35 and 55. Free tea and coffee was supplied to customers after 03:00 and this helped create the low-key conversational environment. Music levels were low and this allowed customers and dancers to engage with one another in conversation. Finally, the venue was not a mass occupancy premises. No queuing took place outside the premises, only five smokers were allowed outside and there was no rapid emptying of the premises. Previously the operation had been a nightclub which had caused considerable trouble to the responsible authorities. Since the applicants had purchased the premises and turned it into a sexual entertainment venue it was now a well-run operation which was having a positive impact on the area. No crime and disorder or nuisance complaints had been made since the premises opened seven years ago.

Mr Kolvin explained that there were no external images displaying the fact that the premises was a sexual entertainment venue. It was very discrete, the door was kept closed at all times and no external drinking was permitted. The venue did not affect the character of Leicester Square and had demonstrated it had been a good neighbour to local businesses and residents. It played an active role in keeping Leicester Square safe and no objections had been received from local residents, businesses or community associations. It was making a positive contribution to upholding the licensing objectives in the local area. For these reasons it was felt that the premises could be regarded as an exception to policy. The request for later hours did mean that the application was very similar to the application from Platinum Lace Gentleman's Club made in 2011. That application was granted and allowed the premises to sell alcohol until 06:00 hours as it had been demonstrated it was an exception to policy. Platinum Lace requested a year later for the last entry to the premises to be extended to 04:00 and this had been granted based on the fact no objections had been received, and no issues reported. This provided empirical evidence of what happened when the precise extension requested was granted. This provided the following, powerful pieces of evidence to support the application before the Sub-Committee:

- The Platinum Lace experience;
- The Sub-Committee's findings in relation to the application by "14" made in 2013;
- The experience of operating Temporary Event Notices (TENS) at the premises for the hours requested without any issues or concerns raised; and
- The applicant was also proposing a tapered reduction in capacity from 02:00 which would help with the dispersal of customers.

The Sub-Committee was interested in how in practice the reduction in capacity would work? Mr Walls, representing the applicant company, advised that a count on how many customers were within the premises was maintained. This allowed staff to refuse entry to customers if required however it was very unusual to a



have a high capacity later in the evening. Customers normally stayed in the premises for an average of 2 to 2.5 hours and the capacity was usually maintained through natural filtration. If the capacity was too high at a certain allocated hour then customers would be asked to leave, although this had never occurred.

In requesting the extension in hours Mr Kolvin highlighted the concessions being offered by the applicant to ensure the premises did not add to the cumulative impact in the area. The tapered limit on the capacity of the venue would help ensure there were no issues with the dispersal of customers. It was also proposed to only serve alcohol to customers who were seated after 03:00 to ensure the premises became even more low-key the later it operated. A taxi marshal would also be deployed from 03:00 to escort exiting customers' to taxis, providing more guardianship in the local area. The Sub-Committee was reminded that the application was very similar to Platinum Lace's except "14" would have half the capacity. The application had strong local support and there was actual evidence of the benign consequences of granting later hours for sexual entertainment venues.

Mr Kolvin suggested that the application would not have any impact on the local area. Extensive conditions were already attached to the licence, an additional security presence was proposed and the sale of alcohol would be ancillary to the entertainment provided. There was empirical evidence from Platinum Lace and the previous application submitted for "14" that it would promote the licensing objectives. The local support for the application, the tapered capacity limits and the successful operation of numerous TENS all made the application an exception to policy.

Mr Kolvin recognised that representations had been received from the responsible authorities. Environmental Health (EH) had submitted a standard representation based on that the later hours were likely to increase levels of nuisance. Evidence had been subsequently presented that this was not the case and no further evidence had been supplied by EH. The Licensing Authority had submitted a policy based representation and no further details had been provided. The Police had submitted a brief representation regarding cumulative impact which stated that further details would be forthcoming.

In response to a question Mr Walls confirmed that any events would be internal only and the cover charge to enter the premises was £20.

Mr Watson, representing Environmental Health, confirmed that the premises had not created any additional nuisance in the local area and had not been subject to any enforcement action. The previous premises had operated as a nightclub and had been an operation creating nuisance. The three aspects of the application were addressed:

- No objections were raised to the removal of conditions 43 and 44;
- With regards to the earlier hours requested the applicant had shown that it could operate in a discrete manner. No problems had been reported to EH and it was felt that earlier hours would not create any issues. No objections had been received from local businesses or residents. The

licence was currently conditioned very heavily and alcohol would be ancillary to the premises operating as a sexual entertainment venue. The current operation was very professional unlike the previous operation which had been a dysfunctional nightclub.

- Concerning the later hours requested the venue could currently operate until 06:00 hours as a sexual entertainment venue Monday to Saturday (though it was noted by the Sub-Committee that the SEV only operated until 06:00 on the days following Thursday to Saturday evenings). Other venues in the local area were not as heavily restricted and further restrictions in capacity would be introduced.

Mr Watson was of the opinion that the proposals would not increase levels of nuisance in the local area and the representation had been maintained to simply answer any questions the Sub-Committee may have had. In response to a question Mr Watson confirmed that as the licence was already heavily conditioned there were no further conditions he would add to the licence.

My Sycamore, representing the Licensing Authority, agreed that the conditions on the licence were sufficient. With regards to the earlier hours requested the character of the area had to be taken into account. The premises was discrete however the Sub-Committee had to consider if allowing a sexual entertainment venue to be open in a family location from 17:00 was appropriate. Concern was also expressed that allowing the later hours would result in additional people being located within a CIA after core hours. After 04:00 50 additional people would be in the CIA resulting in an increase in cumulative impact. Extending the last entry hour for customers to 04:00 had the potential to result in people remaining in the CIA longer before entering the premises.

PC Janes, representing the Metropolitan Police, confirmed that their representation was maintained on the grounds that the later hours applied for went beyond the core hours policy. PC Janes confirmed that the Police had no concerns over the premises opening at 17:00 hours. The Sub-Committee was advised that the venue was not a source of crime and disorder and had operated TENs without any issues arising. Only one incident had been reported in the last year and this related to a theft at the premises.

Mr Maqedonci, a local resident, explained that he lived on the south side of Leicester Square. Problems had been experienced when it had been previously operated as a nightclub however since the current owners had operated the premises all the problems had ceased. The venue was very discrete, no customers congregated outside the premises and it had a very positive impact on Leicester Square.

Mr Kolvin highlighted how a debate had taken place over the late last entry hour during the decision to grant the Platinum Lace application and no issues had arisen from granting it. The Sub-Committee's attention was drawn to the evidence supplied which highlighted the premises was not having a negative impact on the area but was in fact having a positive impact on the Leicester Square area. If the Sub-Committee was satisfied if that was the case then it would be appropriate to grant the application as an exception to policy.

The Council's Policy Adviser requested clarification on the nature and extent of vertical drinking which could occur at the venue. Mr Kolvin advised that there was a bar at the venue which allowed customers to stand, drink and watch the entertainment. Therefore there was the opportunity for vertical drinking but the premises was more setup to provide a seated lounge experience. If the Sub-Committee was minded to grant the later hours restrictions on capacity would be imposed, drinks would only be served after 03:00 to those customers seated and this would all create a safe, relaxed environment.

The Sub-Committee carefully considered the variation to the sexual entertainment venue application and recognised that (for the purposes of the variation to the licence held under the Licensing act 2003) the applicant had accepted that for the application to be granted it had to be demonstrated it was an exception to policy. The Sub-Committee acknowledged that the premises was professionally run and the applicant had significant experience in managing such an operation. The positive effect it was having on the local area was highlighted by the lack of objections received to the application and the numerous letters of support received by residents and businesses. The discrete nature of the venue was recognised and it was felt this made it appropriate for the local area especially bearing in mind that the previous operation had been a nightclub which had created significant disturbance to Leicester Square. In considering the application the Sub-Committee acknowledged that sexual entertainment venues generally caused fewer problems than other types of premises. The condition restricting the sale of alcohol to be ancillary to striptease entertainment, and with the venue only intended to operate as a sexual entertainment venue provided reassurance that the premises would not become alcohol-led. The licence was already heavily conditioned to ensure the licensing objectives were upheld plus the proposed restrictions to the capacity of the venue would help ensure it would not add to cumulative impact in the area. This would be helped through the condition requiring a marshal to be deployed outside the venue from 03:00 to escort customers leaving the premises to taxis and help provide further guardianship in the area. These proposals would ensure there was a gradual and well managed dispersal of customers from the premises. No issues had also arisen from the operation of the TENS. The SEV policy provides that the licensing authority will generally grant an SEV licence for the hours authorised for other licensable activities under the Licensing Act 2003. The application did not give rise to any concerns about granting the variation in the locality where the premises was situated bearing in mind the evidence that had been received regarding the current operation of those premises and there were no other concerns about the use of premises in the vicinity or about the layout, character or condition of the venue itself. As such, after careful consideration, the Sub-Committee agreed to grant the application accordingly.

The Sub-Committee agreed to amend or delete the following conditions in order to update the licence accordingly:

- Additional Condition 1 (now numbered Condition 24) be amended to read:  
"The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:

1. Capacity of 200 (customers) until 2.00am

2. Capacity of 150 (customers) from 2.00am to 3.30am
3. Capacity of 100 (customers) from 3.30am to 4.30am
4. Capacity of 50 (customers) from 4.30am until closing time

- Removal of additional condition 12 from the licence (appearing as condition 35 on the current licence).

In reaching its decision, the members of the Licensing Sub-Committee had full regard to the Human Rights Act implications and the Public Sector Equality Duty as set out in the report. No specific points were raised about those matters at the hearing but the Sub-Committee was satisfied that there were no adverse implications and that the decision to grant the application was in accordance with its duties under section 149 of the Equality Act 2010.

### **Conditions attached to the Licence**

#### **Standard Conditions for Sexual Entertainment Venue Premises**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.

9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or

Immigration Officer.

16. Relevant entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where relevant entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

**Additional Conditions attached to Sexual Entertainment Venues Licence**

24. The maximum number of persons accommodated at any one time (excluding staff) shall not exceed the following:
  1. Capacity of 250 (customers) until 2.00am
  2. Capacity of 200 (customers) from 2.00am to 3.30am
  3. Capacity of 100 (customers) from 3.30am until 4.30 am
  4. Capacity of 50 (customers) from 4.30am until closing time
25. All seating shall consist of tables and chairs arrangements and there shall be no cinema style seating.
26. SIA licensed security shall be posted in the parts of the premises where striptease / table / lap dancing is taking place.

27. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
33. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - i. Pyrotechnics including fire works
  - ii. Firearms
  - iii. Lasers
  - iv. Explosives and highly flammable substances
  - v. Real flame
  - vi. Strobe lighting
34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. After 21.00 hours a log shall be maintained to ensure that the capacity limit set for the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.
36. The certificates listed below shall be submitted to the Licensing Authority upon written request.
  - Any emergency lighting battery or system
  - Any electrical installation
  - Any emergency warning system
37. No person shall give at the *premises* any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced

sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

□ NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

38. Door staff shall be employed at all times when the premises are open for licensable activity. There shall be a minimum of two door supervisors to be employed at the entrance of the premises after 8pm. All door supervisors at the entrance to wear high visibility jackets.

## 5 IRAN RESTAURANT, 27 SHEPHERD MARKET, W1

### LICENSING SUB-COMMITTEE No. 6

Thursday 18<sup>th</sup> May 2017

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health, Orbiton Estates (representing residents at Carrington House) and three local residents.

Present: Mr Shervin Sepanje (Applicant), Mr Dave Nevitt (Environmental Health), Mr Alun Thomas (Solicitor, representing Orbiton Estates) and Mr Tim Steel (witness on behalf of Orbiton Estates).

<b>Iran Restaurant, 27 Shepherd Market, London, W1J 7PR</b> <b>17/02456/LIPV</b>					
<b>1.</b>	<b>Late Night Refreshment</b>				
	<table><thead><tr><th><u>Current</u></th><th><u>Proposed</u></th></tr></thead><tbody><tr><td>Monday to Saturday: 23:00 – 00:00</td><td>Monday to Sunday: 23:00 – 01:00</td></tr></tbody></table>	<u>Current</u>	<u>Proposed</u>	Monday to Saturday: 23:00 – 00:00	Monday to Sunday: 23:00 – 01:00
<u>Current</u>	<u>Proposed</u>				
Monday to Saturday: 23:00 – 00:00	Monday to Sunday: 23:00 – 01:00				
	Amendments to application advised at hearing:  None				
	Decision (including reasons if different from those set out in report):  The Sub-Committee considered an application by Kitchen Centre Ltd for a variation of a premises licence in respect of the Iran Restaurant, 27 Shepherd Market, London, W1J 7PR.				



The Licensing Officer provided an outline of the application to the Sub-Committee.

All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.

Mr Sepanje, the applicant, advised that the main reason an extension in hours for the sale of alcohol was being requested was to increase the premises' revenue. It had been operating for approximately five to six years during which time there had only been a minimal number of complaints. The premises was small in scale with only a limited number of covers. A large number of customers were from overseas and they preferred dining later in the evening which was one of the main reasons a proposed extension in hours had been requested. The premises was predominantly focused on providing high quality food and the sale of alcohol was ancillary to customers taking a table meal. No draught beer was available and there were no alcohol led promotions. The restaurant was well established within the area and approximately 90-95% of customers pre-booked their table. There was a demand from customers to have a longer period to enjoy the food provided and the extra revenue this generated would help with the increasing overheads associated with operating a restaurant.

Mr Sepanje explained how the premises did not cause a nuisance in the local area and the only complaints made had been unfounded. One related to a noise complaint which was investigated and no further action was taken. The second related to the noise of clearing tables and chairs and again following an investigation no further action was taken. If the extension in hours was granted it would not set a precedent in the local area as the other restaurants in the area were much larger, catered for more customers and provided more licensable activities. The clientele at the restaurant were very well behaved, a relaxed dining environment was provided for them and the premises was not alcohol-led. Less than 1% of revenue was generated from sales of alcohol. Finally, the customers frequenting the premises departed from the area once they left the premises and did not remain in the local area.

The Sub-Committee was interested to learn why it was felt an increase in hours was acceptable in the area when applications were generally granted to core hours only? Mr Sepanje stated that customers dined at the premises and once they had finished their meal left the area. The customers were not rowdy or intoxicated and usually consisted of repeat customers such as families or local business workers. The premises was a place for customers to relax and as such no music was played. All staff were also fully trained and this would result in the extension in hours causing no impact on the local area. If the Sub-Committee was minded to grant the application and subsequently the premises did create disturbance the residents always had the option to instigate a review of the premises licence. Overall though the premises had proven itself as a responsible operator over the last six years.

Mr Nevitt, representing Environmental Health (EH), confirmed that a condition was attached to the current licence requiring the premises to operate as a

restaurant. The scale of the operation was very small however EH's representation was maintained on three grounds:

- i) The application was seeking to operate beyond core hours. Previous Sub-Committees had granted other restaurants an extension in hours until 01:00 however this was subject to the impact they would have on their locality. It was recognised that this premises was not situated within a Cumulative Impact Area (CIA).
- ii) There was a concern that granting the application would set a precedent in the local area. The restaurant was situated in a small pedestrianised area containing residential properties and granting the extension could potentially lead to applications from neighbouring premises.
- iii) Local residents had major concerns over the application. It was a very quiet area late at night with low ambient noise levels. The later in the evening noise was made the more obvious and apparent it would become. This could result from people talking or the scraping of tables and chairs etc.

Mr Nevitt acknowledged that the premises was professionally operated and some unsubstantiated complaints had been made against it. However concerns were raised over the impact the extension in hours would have on the local area.

Mr Thomas, representing the Orbiton Estate, described how Carrington House located nearby was very residential. Mr Thomas introduced a witness, Mr Tim Steel, who was appearing on behalf of the Orbiton Estate residents. Mr Thomas indicated that Orbiton Estates had given specific permission to Mr Steel to speak on their behalf. Mr Steel explained how the licenced premises in the local area had all signed up to a voluntary code to monitor the area and implement schemes such as preventing smokers outside from taking drinks with them in order to minimise the impact they had on residents.

In response to a query from Mr Thomas regarding the percentage of revenue generated from alcohol Mr Sepanje confirmed that it constituted approximately only 1% as it was a food-led premises. Mr Thomas highlighted that the application was seeking to extend hours for the sale of alcohol beyond core hours. For the Sub-Committee to grant the application it had to be satisfied the extension would not cause any problems, bearing in mind there were residential properties directly above the premises. Mr Thomas circulated, with the agreement of all parties, the original Sub-Committee decision granting a premises licence in 2012 which was an application identical to the one before it now. At that time the Sub-Committee granted the application but only until 00:00 due to its location and the residential concerns raised. Nothing had changed since that application. Shepherd Market was a small, enclosed area where any noise generated was exacerbated. The applicant had stated there had been no complaints but the representation submitted by Mr Deavin provided details of the high levels of noise nuisance already generated something this application would increase. The history of the premises also provided some concern. The premises licence had been transferred three times in three years and this gave rise to concerns over how the premises could operate in the future. The applicant had also described how families were one of the main customers at the premises, however this was unlikely to be the case for the later hours

requested.

Mr Thomas advised that the application had to be judged on its merits but with the evidence provided by Mr Deavin, the residential nature of the area and the hours requested being beyond core hours the application failed on its merits. The application would inevitably create nuisance to residents and no conditions had been offered by the applicant to provide any reassurance to the Sub-Committee it would promote the licensing objectives. It was recognised that the application would make a difference to the revenue of applicant's premises however it would also make a detrimental difference to the amenity of local residents.

Mr Sepanje explained that he knew many of the local residents and they had never raised any concerns with him previously. With regards to the future he was planning to extend the lease and remain at the premises for the foreseeable future. He had a commitment to the local area and the proposed extra hours would simply help a local business. It was correct that nothing had changed since the previous application in 2012 as he had subsequently shown that he could successfully operate a restaurant in Shepherd Market.

Mr Thomas brought the Sub-Committee's attention to the restaurant condition attached to the licence and queried if the applicant was complying with it. Mr Sepanje explained that he did understand the condition but he had sometimes sold alcohol to customers who were waiting for their friends to arrive for a meal. He adhered to all the conditions on the licence but in such circumstances he did not want to turn customers away. The response from Mr Sepanje was of great concern to the members of the Sub-Committee as it clearly indicated that he did not fully understand the clear requirements of his licence but also of licensing law in general.

The Sub-Committee carefully considered the application and expressed sympathy with the applicant over the many difficulties faced by small business owners. It was recognised that the Shepherd Market area was quite unusual due to its mix of residential and business properties. The area did contain pedestrianised, narrow streets and it was acknowledged that any noise created would reverberate around the premises creating nuisance to residents. The original decision of the Licensing Sub-Committee in 2012 had granted the licence to 00:00 hours as it had felt this was appropriate for the area. The Sub-Committee did not believe anything had changed in the area subsequently to justify any further increase in the hours. The application was seeking to sell alcohol beyond the core hours policy and it was felt this was not appropriate for its location and would not uphold the licensing objectives. It was important to strike the right balance in the area due to its nature and the application, as presented, would not help achieve this. Concern was also expressed that granting the proposed hours would set a precedent in the area and result in other licenced premises submitting applications to extend hours for the sale of alcohol. This would have the potential of increasing noise disturbance in Shepherd Market and negatively impact on residents' amenity. No conditions had been offered by the applicant to provide reassurances that the proposals would uphold and promote the licensing objectives and as such the Sub-Committee refused the application accordingly. The Sub-Committee reminded

	Mr Sepanje that it was important to abide by all the conditions attached to the licence and ensure all sales of alcohol were ancillary to food.				
<b>2.</b>	<b>Sales of Retail by Alcohol – On Sales</b>				
	<table> <thead> <tr> <th><u>Current</u></th> <th><u>Proposed</u></th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday: 10:00 – 00:00 Sunday: 12:00 – 22:30</td> <td>Monday to Saturday: 10:00 – 01:00 Sunday: 12:00 – 01:00</td> </tr> </tbody> </table>	<u>Current</u>	<u>Proposed</u>	Monday to Saturday: 10:00 – 00:00 Sunday: 12:00 – 22:30	Monday to Saturday: 10:00 – 01:00 Sunday: 12:00 – 01:00
<u>Current</u>	<u>Proposed</u>				
Monday to Saturday: 10:00 – 00:00 Sunday: 12:00 – 22:30	Monday to Saturday: 10:00 – 01:00 Sunday: 12:00 – 01:00				
	Amendments to application advised at hearing:  None				
	Decision (including reasons if different from those set out in report):  The application was refused; see section 1 for further details.				
<b>3.</b>	<b>Hours Premises are Open to the Public</b>				
	<table> <thead> <tr> <th><u>Current</u></th> <th><u>Proposed</u></th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday: 07:00 – 00:00 Sunday: 08:00 – 23:00</td> <td>Monday to Saturday: 07:00 – 01:30 Sunday: 08:00 – 01:30</td> </tr> </tbody> </table>	<u>Current</u>	<u>Proposed</u>	Monday to Saturday: 07:00 – 00:00 Sunday: 08:00 – 23:00	Monday to Saturday: 07:00 – 01:30 Sunday: 08:00 – 01:30
<u>Current</u>	<u>Proposed</u>				
Monday to Saturday: 07:00 – 00:00 Sunday: 08:00 – 23:00	Monday to Saturday: 07:00 – 01:30 Sunday: 08:00 – 01:30				
	Amendments to application advised at hearing:  None				
	Decision (including reasons if different from those set out in report):  The application was refused; see section 1 for further details.				

## **6 THE MARYLEBONE KITCHEN, 106 YORK STREET, W1**

### **LICENSING SUB-COMMITTEE No. 6**

*Thursday 18th May 2017*

Membership: Councillor Melvyn Caplan (Chairman), Councillor Julia Alexander and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Tristan Fieldsend

Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and two local residents.

Present: Mr Louay Michel (Applicant), Mr Ian Watson (Environmental Health) and Mr Peter Sleep and Mrs Sonia Sleep (local residents).

<p><b>The Marylebone Kitchen, 106 York Street, London, W1H 4QN 17/02615/LIPN</b></p>	
<p><b>1.</b></p>	<p><b>Sale by Retail of Alcohol – On and Off</b></p> <p>Monday to Saturday: 11:00 to 23:00 Sunday: 11:00 to 22:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>None applied for.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Councillor Julia Alexander declared that the application was located within the Ward she represented, Bryanston and Dorset Square Ward, and she therefore withdrew from the meeting for this application.</p> <p>The Sub-Committee considered an application by the Marylebone Kitchen Ltd for a new premises licence in respect of The Marylebone Kitchen, 106 York Street, London, W1H 4QN.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>Mr Michel, the applicant, explained that he was the owner of the Marylebone Kitchen having purchased the leasehold of the premises which had previously operated as a café. The new operation was focused on providing quality food primarily at brunch or lunch. The food was described as fresh and home cooked and the premises was also a destination where people could go to buy coffee. The premises was currently permitted to operate between the hours of 07:00 and 16:00 which made it difficult to make the business financially viable. It was therefore proposed to extend the hours so the premises could open later in the evening in order to provide a dinner option as well as open on weekends. The majority of local residents were accepting of the application and there was a demand for the premises to open on weekends. Being able to serve alcohol would provide an extra option for customers dining at the premises and the Sub-Committee was informed that the premises would not become a bar and would be focussed on providing a food offer. The premises did not attract noisy customers and following constructive discussions with the Police and Environmental Health (EH) proposed conditions to be added to the licence had been agreed. This included a condition requiring the consumption of alcohol to be ancillary to customers taking a substantial table meal. It was also proposed to utilise the external area of the premises to allow customers to dine outside with</p>

any consumption of alcohol being ancillary to the taking of a substantial table meal.

The Sub-Committee recognised that the restaurant condition had been accepted and noted the capacity of the premises was 18 inside and 8-10 outside. Further clarification was requested however on whether it was proposed to utilise the external area to serve food and alcohol until 23:00 hours? Mr Michel advised that the external area would not be utilised every evening. The proposal to extend the hours would allow the provision of 'Supper Nights' where private parties could book the venue and Mr Michel would cook for them exclusively. Allowing the use of the external area would provide more flexibility, especially in the summer, and would allow him to establish the business further as it had only been open for six weeks. Mr Michel accepted that the use of the external area had been a cause for concern but he was happy for this to be restricted to an earlier hour of 21:00 or 22:00 hours. Due to the small scale nature of the premises it would not be possible to bring inside any tables and chairs located outside but the Sub-Committee was advised that all the proposed conditions agreed would be strictly adhered to. Mr Michel stated that he wanted the premises to be a good neighbour to the local residents and for it to hopefully become an important feature of the community.

Mr Watson, representing EH, advised the Sub-Committee that the premises did constitute a relatively small operation. It was confirmed that the inside of the premises comprised of a collection of tables and chairs including high chairs. Currently there were no tables or chairs located in the external area, the previous operation did have permission for this and Mr Michel would have to apply for permission to allow it once again. The nature of the street was one of mixed residential and business use with a pub also located nearby. A capacity condition had not been proposed because of the small size of the premises. The use of the external area had the potential to cause concern especially if it was allowed to operate until 23:00 hours. Mr Watson had inspected all the proposed conditions and was satisfied that they would ensure the premises would be food-led. With regards to waste collections and deliveries these occurred twice a day, one in the morning and one later in the evening. Any waste would have to be stored in the premises overnight and then presented outside in the mornings. Due to the small size of the premises it was not possible to have a dedicated refuse area. With regards to any tables and chairs located in the external area it was also confirmed that there was not enough storage space from them to be brought inside the premises. They would therefore have to be rendered unusable. The application had originally requested recorded music but any music played would be incidental and it had subsequently been removed from the application. The applicant was aware of the sensitive nature of the locality and how the use of the external area could impact on local residents. Mr Michel was therefore mindful that the premises had to be a good neighbour.

Mr and Mrs Sleep, local residents, explained that they lived opposite the premises. Mr Sleep confirmed that the significant refurbishment undertaken had visually improved the premises and its presence in the local area was welcomed. Their representation was maintained though as it was felt the application was vague. Concerns over recorded music had been addressed however further concerns over the use of the external area remained. It was

suggested that the permitted hours for this area be reduced from 23:00 to make it more consistent with other licenced premises in the area. The street it was located on was very narrow where any noise generated had an echo effect. This disturbance would be increased later in the evening when ambient noise levels were lower. It was suggested people leaving premises later in the evening often caused more noise and it was suggested therefore that the hours requested for the external area be restricted accordingly. In their written representation it was noted that they wanted it restricted from 19.00 hours. It was also hoped to restrict the nature of the premises so if the owner did change in future it could not become an alcohol-led premises.

Mr Michel understood the concerns raised. With regards to the waste it was confirmed that this would be stored inside the premises overnight and presented accordingly in the mornings. To provide reassurances over the external area all the chairs used within it would be foldable and the tables would be made unusable to ensure people realised that the area was closed. Mr Michel advised that he had invested significantly in starting the business and he wanted to operate from the premises for the foreseeable future. The food offer could potentially change depending on demand from customers but the premises would remain a restaurant and not become a bar.

The Sub-Committee carefully considered the application and was encouraged that constructive discussions between the applicant, EH and local residents had been taking place. Mr Michel's assertions that he wanted to be a good neighbour and help enhance the local area were welcomed. The Sub-Committee wanted to help new businesses develop and as such granted the application but through restricting the hours and imposing several conditions on the licence this would help ensure it was appropriate for the local area. It was felt restricting the use of the external area to 21:00 hours was an appropriate compromise for the locality in which it would operate. This would ensure the business could operate extended hours but would also provide reassurance to residents that it would not become a source of noise disturbance, especially later in the evening. A refuse collection condition would also be added to the licence to ensure any refuse was collected and presented so as to not to cause any nuisance to residents. A further condition on deliveries would also be imposed to ensure no deliveries took place late at night creating a noise disturbance to residents. The Sub-Committee recognised that the hours proposed on a Sunday were slightly beyond the core hours policy as it would allow the sale of alcohol from 11:00 hours. As the premises would have a restaurant condition imposed on the licence though this would ensure it did not become an alcohol-led premises. The Sub-Committee therefore felt reassured that the granting of the hours on Sundays would uphold the licensing objectives. A restriction on smokers outside the premises had been considered however due to the small scale nature of the operation, with a capacity of just 18 people inside the premises, it was felt this was unnecessary. Therefore the Sub-Committee was of the opinion that as the premises was not located in a Cumulative Impact Area, the nature of the operation and the restrictive conditions imposed on the licence would all ensure that the application upheld and promoted the licensing objectives.

The following conditions were removed, amended or added to update the licence and ensure there was no duplication:

	<ul style="list-style-type: none"> <li>• Removal of conditions 9-16 from the licence;</li> <li>• Condition 20 (now condition 12) be amended to read “Alcohol consumed in external areas of the premises shall only be consumed by patrons seated at tables.”</li> <li>• Model condition 19 (now condition 13) be added to the licence to read “All outside tables and chairs shall be rendered unusable by 21:00 each day.”</li> <li>• Condition 25 (now condition 18) be amended to read “No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between <b>23.00</b> hours and <b>07.30</b> hours on the following day.”</li> <li>• Model condition 43 (now condition 20) be added to the licence to read “No collections of waste of recycling materials (including bottles) from the premises shall take place between <b>23:00</b> hours and <b>07:30</b> hours on the following day Monday to Saturday and <b>22:00</b> hours and <b>07:30</b> hours on Sundays.”</li> <li>• Model condition 65 (now condition 19) be added to the licence to read “No deliveries to the premises shall take place between 23:00 hours and 07:30 hours on the following day Monday to Saturday and <b>22:00</b> hours and <b>07:30</b> hours on Sundays.”</li> <li>• Condition 31 (f) (now condition 26(f)) be amended to read “any faults in the CCTV system.”</li> <li>• Condition 32 (now condition 27) be amended to read “The premises shall only operate as a restaurant in which customers are seated either internally or externally on the private forecourt. Food will be provided in the form of substantial table meals that are prepared on the premises and are served at a counter but consumed at a table using recyclable, non-disposable or biodegradable crockery and cutlery. The premises will not provide any take away service of food or drink after 23.00, and where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises (including the private forecourt) and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.”</li> </ul>
<p><b>2.</b></p>	<p><b>Hours Premises are Open to the Public</b></p> <p>Monday to Saturday: 07:00 to 23:00  Sunday: 10:00 to 22:00</p> <p><b>Seasonal Variations/Non-Standard Timings:</b></p> <p>None applied for.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p>



The application was granted, the reason for the decision is detailed in section 1.

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
  - (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –

$$P = D+(D \times V)$$

Where –

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Conditions consistent with the operating schedule**

9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
11. The supply of alcohol shall be by waiter or waitress service only.
12. Alcohol consumed in external areas of the premises shall only be consumed by patrons seated at tables and the consumption of alcohol in those areas shall cease by 21.00.
13. All outside tables and chairs shall be rendered unusable by 21:00 each day.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
15. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.30 hours on the following day.
19. No deliveries to the premises shall take place between 23:00 hours on Monday to Saturday and 07:30 hours on the following day and 22:00 hours on Sunday and 07:30 hours on the following day.
20. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours on Monday to Saturday and 07:30 hours on the following day and 22:00 hours on Sunday and 07:30 hours on the following day.
21. There shall be no draught sales of beers or lagers.
22. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of

recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

23. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

24. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

25. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises are open.

26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service

27. The premises shall only operate as a restaurant in which customers are seated either internally or externally on the private forecourt. Food will be provided in the form of substantial table meals that are prepared on the premises and are served at a counter but consumed at a table using recyclable, non-disposable or biodegradable crockery and cutlery. The premises will not provide any take away service of food or drink after 23.00, and alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises (including the private forecourt) and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_